

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LAQUNA TAYLOR

vs.

EAST TEXAS BORDER HEALTH
CLINIC

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CASE NO. 2:06-CV-493-TJW-CE

ORDER

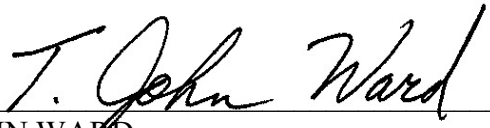
The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 45), which contains his proposed findings of fact and his recommendation that the court grant East Texas Border Health Clinic's ("the Clinic") motion for summary judgment, has been presented for consideration. The motion for summary judgment contends that the Clinic is not liable under the TCHRA or Title VII because it employed less than fifteen persons during 2005 and 2006, the years the alleged discrimination occurred. *See* 42 U.S.C. § 2000e(b); Tex. Lab. Code Ann. § 21.002(8). Because Ms. Taylor failed to dispute that the Clinic employed no more than nine persons during the years in question, the Magistrate Judge recommended granting the Clinic's motion.

The plaintiff has filed objections to Judge Everingham's report and recommendation. Ms. Taylor argues that the Clinic did employ more than nine employees during 2005 and 2006. In support of her argument, Ms. Taylor includes a list of the Clinic's board members and the witness list from the Clinic's pre-trial disclosure. An unverified list of board members and a witness list is not sufficient to prove that the Clinic had fifteen or more employees. Because the Clinic's board members are not compensated and do not perform traditional employee duties, they are not considered employees for the purposes of Title VII and the TCHRA. *See Llampallas v. Mini-Circuits, Lab, Inc.*, 163 F.3d 1236, 1243-44 (11th Cir. 1998); *Chavero v. Local 241, Div. of*

Amalgamated Transit Union, 787 F.2d 1154, 1156 (7th Cir. 1986). Likewise, the Clinic's witness list contains a list of former employees, but it does not demonstrate that fifteen or more of these individuals were employed at the same time.

For the foregoing reasons, the undersigned overrules the plaintiff's objections and adopts the findings and conclusions contained in Judge Everingham's report and recommendation. A final judgment is issued herewith. All other pending motions are denied.

SIGNED this 5th day of January, 2010.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE